

SPECIAL CIVIL APPLICATION No 5007 of 1987

Hon'ble MR.JUSTICE R.K.ABICHANDANI

2. To be referred to the Reporter or not? : YES

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order m

5. Whether it is to be circulated to the Civil Judge? : NO

Versus

COLLECTOR

1. Special Civil Application No. 5007 of 1987

MR VIMAL PATEL for MR KS NANAVATI for Petitioner

MR V.M. PANCHOLI, ASSTT. GOVERNMENT PLEADER for Respondent No. 1

MR ANAND DAVE for Respondent No. 3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 02/11/1999

ORAL JUDGEMENT

The petitioner challenges the notices at Annexure "A" collectively to the petition, issued by Alien

Recovery Mamlatdar, Ahmedabad, under Section 152 of the Bombay Land Revenue Code for recovering the dues of provident fund from the employer for the period mentioned in these notices. The notices were sent to the petitioner who was formerly the Director of the Bharat Suryodaya Mills. According to the petitioner, he ceased to be the director of the company long back. The recovery proceedings were stayed when Rule was issued on 16.1.1991.

2. Today, when the matter is called out for final hearing, the learned Counsel appearing for the Recovery Authority, stated that since the notice proceedings have been stayed for a long period, a fresh notice can be issued to enable the petitioner to respond. According to the petitioner, he cannot be made liable for such dues as an ex-director of the company. The petitioner could have responded to the earlier notice by saying that he was not liable, but the petitioner chose to approach the Court at the notice stage itself, as a result of which proceedings could not be undertaken even for taking note of the fact that the petitioner was, according to him, not liable. It is stated by the learned Counsel for the petitioner that if a fresh notice is issued, the petitioner will now suitably respond. In this view of the matter, the notices already issued will not be implemented and if the Recovery Mamlatdar choses to issue a fresh notice in accordance with law, the petitioner will respond to that notice. The matter stands disposed of accordingly. Rule is made absolute in the above terms with no order as to costs.

*/Mohandas